

**OUTTEN & GOLDEN LLP**

Nicholas H. Sikon  
Aliaksandra Ramanenka  
685 Third Avenue, 25<sup>th</sup> Floor  
New York, New York 10017  
(212) 245-1000

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARSH & MCLENNAN AGENCY LLC,

Plaintiff,

-against-

ELMER “RICK” FERGUSON,

Defendant.

No. 19-cv-03837 (VSB)

**DEFENDANT’S NOTICE OF MOTION TO DISMISS OR IN THE ALTERNATIVE TO  
COMPEL ARBITRATION, AND IN SUPPORT OF APPLYING CALIFORNIA LAW**

**PLEASE TAKE NOTICE** that upon the Memorandum of Law in Support of Defendant’s Motion To Dismiss Or in the Alternative Motion to Compel Arbitration, and In Support of Applying California Law, and the Declaration of Elmer “Rick” Ferguson (and the accompanying exhibits), both of which are served contemporaneously with this Notice, and such further evidence and argument as the Court may permit, Defendant Elmer “Rick” Ferguson (“Mr. Ferguson” or “Defendant”) shall move before the Honorable Vernon S. Broderick, United States District Court Judge for the Southern District of New York, at the Courthouse located at 40 Foley Square, Courtroom 518, New York, NY 10007, on June 28, 2019, or as soon thereafter as counsel may be heard, for an Order dismissing the claims against Mr. Ferguson in the above-captioned action pursuant to Fed. R. Civ. P., Rules 12(b)(1) and 12(b)(7) for lack of subject matter jurisdiction and

failure to join a required party under Fed. R. Civ. P., Rule 19; or in the alternative, to compel arbitration, and for an Order declaring California law as the substantive state law applicable to all of Plaintiff's claims in this action.

Pursuant to the briefing schedule adopted by the Court (*see* ECF No. 20), Plaintiff's opposing papers, if any, shall be served on or before June 14, 2019. Defendant's reply papers, if any, in further support of his motion shall be served on or before June 28, 2019.

Dated: June 5, 2019  
New York, New York

Respectfully submitted,

/s/ Nicholas H. Sikon

Nicholas H. Sikon

Aliaksandra Ramanenka

**OUTTEN & GOLDEN LLP**

685 Third Avenue, 25<sup>th</sup> Floor

New York, New York 10017

Phone: (212) 245-1000

Email: nsikon@outtengolden.com

aramanenka@outtengolden.com

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I, Nicholas H. Sikon, certify that on this 5th day of June, 2019, I electronically filed the foregoing document, along with the Memorandum of Law in Support of Defendant's Motion To Dismiss Or in the Alternative Motion to Compel Arbitration, and In Support of Applying California Law and the Declaration of Elmer "Rick" Ferguson (and the accompanying exhibits) with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Plaintiff by electronically serving their counsel of record.

/s/ Nicholas H. Sikon

Nicholas H. Sikon